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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/005,552	10/29/2001	Jay F. Kunzler	P02460	8018	
7:	590 01/16/2003				
John E. Thomas Bausch & Lamb Incorporated One Bausch & Lomb Place			EXAMINER		
			MOORE, MARGARET G		
Rochester, NY	14604		ART UNIT	PAPER NUMBER	
			1712	2	
			DATE MAILED: 01/16/2003)	

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Applicantial Application No. Applicantial					1/2				
Examiner Margaret & Moore 1712		Application No.		Applicant(s)					
Margaret G. Moore	•	10/005,552		KUNZLER ET AL.					
- The MALING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Estatistics for the map to a validation under the provisions of 3 CFR 1.136(a). In a overt, however, may a reply be timely filled to the period for may be specified above it less than other (00) days, a reply within the statistics replication of the reply specified above its less than other (00) days, a reply within the statistics of the period for reply specified above its less than other (00) days, a reply with the statistics of the period for reply specified above its less than other (00) days, and will replied the menting date of this communication. Fallow to reply shall be used to extended period for reply with its validation to become ALMACONED (25 U.S.C.§ 13.5). Responsive to communication (5) field on	Office Action Summary	Examiner	,	Art Unit					
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THE MAILING DATE OF THIS COMMUNICATION. Estendands of time may be available under the provisions of 3 CPR 1.36(a). In so event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. If the period to may specified above is uses that thing (30) days, a reply within the statistory misimum of thiny (20) days will be considered timely, and the set of the communication of the provision of the provisi	•	pears on the cover	sheet with the co	rrespondence add	dress				
2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1to 19 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 3) Claim(s) 1to 19 are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10 The drawing(s) filed on is/are: all accepted or bl objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: all approved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * O None of: 1. Certified copies of the priority documents have been received in Application No. application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the	THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1. after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a replif NO period for reply is specified above, the maximum statutory period. - Failure to reply within the set or extended period for reply will, by statut. - Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	.136(a). In no event, howev ply within the statutory minir I will apply and will expire S te, cause the application to	er, may a reply be timel num of thirty (30) days v IX (6) MONTHS from the become ABANDONED	y filed vill be considered timely e mailing date of this co (35 U.S.C. § 133).					
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Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 4) Interview Summary (PTO-413) Paper No(s) 5) Notice of Informal Patent Application (PTO-152)									
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)		, , , , , , , , , , , , , , , , , , , ,	00						
	2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) 🔲	Notice of Informal Pa						

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1 to 7, drawn to a hydrogel, classified in class 526, subclass 279.
- II. Claims 8 to 16, drawn to a contact lens, classified in class 523, subclass 107.
- III. Claims 17 to 19, drawn to a monomer, classified in class 528, subclass 42.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions of Group I and Group II are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP § 806.04(h)). In the instant case, the intermediate product is deemed to be useful as a component for forming medical devices and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.
- 3. Inventions of Group III and Group I are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP § 806.04(h)). In the instant case, the intermediate product is deemed to be useful as a curable component in an addition curing silicone rubber and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably

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distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

- 4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
- 5. In an effort to expedite prosecution, the Examiner would like to bring to applicants' attention the fact that the monomer formulas in claims 1, 8 and 17 are incomplete. Notice for instance that 'A' is not defined, nor are any of the $R_1 R_5$ groups. She suggests that applicants include a preliminary amendment, correcting these errors, with their election to ensure a more complete and accurate first office action on the merits.
- 6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
- 7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret G. Moore whose telephone number is 703-308-4334. The examiner can normally be reached on Mon., Wed., Thurs. and Friday, 10am to 4pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Dawson can be reached on 703-308-2340. The fax phone numbers

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for the organization where this application or proceeding is assigned are 703-872-9311 for regular communications and 703-872-9310 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Margaret & Moore Primary Examiner Art Unit 1712

mgm January 15, 2003